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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/905,531	07/13/2001	Ellis Junior Smith	DEE6270P0090US	3484

7590 11/20/2002

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EXAMINER
LOPEZ, FRANK D

ART UNIT	PAPER NUMBER
3745	

DATE MAILED: 11/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/905,531	SMITH ET AL.	
	Examiner	Art Unit	
	F. Daniel Lopez	3745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-24 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-24 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4, 5 .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

Claim Objections

Claims 6 and 18 are objected to because of the following informalities: in claim 6 line 2 and 3 "switch" should be –actuator--, to agree with claim 1 line 9; in claim 18 line 2 –first—should be added before "hydraulic implement" and line 3 –second—should be added before "hydraulic implement", to differentiate between the two. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 8, 9, 11, 13, 14, 17, 18 and 20 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Jenkins.

Claims 1, 4, 5, 10-12, 15, 18, 21 and 22 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Harada et al.

Claims 1, 9, 17 and 18 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Hein et al.

Claims 1, 3, 4, 9-11, 14, 15, 18, 20 and 21 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Balzer.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

> A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

> Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 2 and 19 are rejected under 35 U.S.C. § 103 as being unpatentable over Hein et al in view of Balzer. Hein et al discloses a hydraulic system for a utility vehicle comprising a source (14) of pressurized hydraulic fluid connected to a diverter valve selectively positioned to connect the source to either a first (scraper body B) or second (scraper body C) hydraulic implement; wherein the diverter valve includes a plurality of pilot operated valves (e.g. 28, 30) connected to a pilot valve (40), which is mechanically connected to a control actuator (see e.g. fig 3); but does not disclose that the pilot valve is solenoid operated, and electrically connected to the control actuator.

Balzer teaches, for a hydraulic system for a utility vehicle comprising a source of pressurized hydraulic fluid connected to a diverter valve selectively positioned to connect the source to either a first (e.g. 12) or second (e.g. 14) hydraulic implement; wherein the diverter valve includes a pilot operated valve (e.g. 20) connected to a pilot valve (49), operated by a control actuator (as witch, column 2 line 58-64); that the pilot valve is solenoid operated (by 52), and electrically connected to the control actuator.

Since the pilot valves of Hein et al and Balzer are functionally equivalent in the piston art; it would have been obvious at the time the invention was made to one having ordinary skill in the art to replace the mechanically operated pilot valve of Hein et al with a solenoid operated pilot valve, electrically connected to the control actuator, as taught by Balzer, as a matter of engineering expediency.

Claims 7 and 24 are rejected under 35 U.S.C. § 103 as being unpatentable over Hein et al in view of Balzer, as applied to claim 2 and 19, respectively, above, and further in view of Jenkins. The modified Hein et al discloses all of the elements of claims 7 and 24, but does not disclose that the pilot operated valves are cartridge valves held within a housing.

Jenkins teaches, for a hydraulic system for a utility vehicle comprising a source of pressurized hydraulic fluid connected to a diverter valve selectively positioned to connect the source to either a first (e.g. 3) or second (e.g. 17) hydraulic implement; wherein the diverter valve includes a plurality of valves (35', 36', 37', 38'), operated by a control actuator; that the plurality of valves are cartridge valves held within a housing, for the purpose of ease of assembling the hydraulic system.

Since Hein et al and Jenkins are both from the same field of endeavor, the purpose disclosed by Jenkins would have been recognized in the pertinent art of Hein et al. It would have been obvious at the time the invention was made to one having ordinary skill in the art to make the plurality of pilot operated valves of the modified Hein et al cartridge valves held within a housing, as taught by Jenkins, for the purpose of ease of assembling the hydraulic system.

Claims 6 and 23 are rejected under 35 U.S.C. § 103 as being unpatentable over Harada et al in view of Peterson. Harada et al discloses a hydraulic system for a utility vehicle comprising a source (9) of pressurized hydraulic fluid connected to a diverter valve selectively positioned to connect the source to either a first (e.g. 3) or second (e.g. 4) hydraulic implement; wherein the diverter valve is electrically connected to a control actuator (12a, 12b) by an electrical circuit, connected to a battery (14); but does not disclose that there is a diverter activation switch in the electrical circuit, with a change of state of the diverter activation switch required to make the control actuator operable.

Peterson teaches, for a hydraulic system for a utility vehicle comprising an electrical circuit connecting a battery (43) to a control actuator (51), which actuates valves; that there is an activation switch (unnumbered, between battery and electrical switches) in the electrical circuit, with a change of state of the diverter activation switch required to make the control actuator operable, for the purpose of locking the valves off.

Since Harada et al and Peterson are both from the same field of endeavor, the purpose disclosed by Peterson would have been recognized in the pertinent art of Harada et al. It would have been obvious at the time the invention was made to one having ordinary skill in the art to add an activation switch in the electrical circuit between

the battery and the control actuator of Harada et al, as taught by Peterson, for the purpose of locking the valves off.

Claim 16 is rejected under 35 U.S.C. § 103 as being unpatentable over Jenkins in view of Harada et al. Jenkins discloses a hydraulic system for a utility vehicle comprising a source of pressurized hydraulic fluid connected to a diverter valve selectively positioned to connect the source to either a first cylinder (e.g. 11), to raise or lower a backhoe bucket (17), or a second cylinder (e.g. 4), to operate a loader bucket (5); but does not disclose that the second cylinder operates a clam shell.

Harada et al teaches, for a hydraulic system for a utility vehicle comprising a loader (2) having a loader bucket (4) operated by a cylinder (7), the equivalence of replacing the loader bucket with a clam shell (51, fig 7), with a cylinder operating the clam shell.

Since Harada et al teaches the equivalence of using either a loader bucket or a clam shell, and since Jenkins uses a loader bucket; it would have been obvious at the time the invention was made to one having ordinary skill in the art to replace the loader bucket of Jenkins, with a clam shell, with a cylinder operating the clam shell, as taught by Harada et al, as a matter of engineering expediency.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Lopez whose telephone number is (703) 308-0008. The examiner can normally be reached on Monday-Thursday from 6:30 AM -4:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look, can be reached on (703) 308-1044. The fax number for this group is (703) 872-9302. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0861.

F. Daniel Lopez
Primary Examiner
Art Unit 3745
November 15, 2002